

The 27th July, 1977

No. 7798-3Lab-77/20933.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Haryana, Faridabad in respect of the dispute between the workman and the management of M/s Maheshwari and Co. (P) Ltd., 14/4, Mathura Road, Faridabad.

BEFORE SHRI NATHU RAM SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA, FARIDABAD

Reference No. 67 of 1977

between

SHRI R. N. CHAKRAVERTI, WORKMAN AND THE MANAGEMENT OF M/S MAHESHWARI AND CO. (P.) LTD., 14/4, MATHURA ROAD, FARIDABAD

Present :

Neither party present.

AWARD

By order No. ID/FD/942-E-77/22387, dated the 8th June, 1977, the Governor of Haryana referred the following dispute between the management of M/s Maheshwari & Co. (P) Ltd., 14/4, Mathura Road, Faridabad and its workman Shri R. N. Chakraverti to this Tribunal, for adjudication, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947:—

Whether the termination of services of Shri R. N. Chakraverti was justified and in order ?
If not, to what relief is he entitled ?

On receipt of the order of reference, notices were issued to the parties. Notice was served on both the parties but none of them appeared. It seems that the workman is not taking interest in pursuing his dispute. I, therefore, give my award that the termination of services of the workman concerned was justified and in order and is not entitled to any relief.

NATHU RAM SHARMA,

Dated the 14th July, 1977.

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Endorsement No. 611, dated 18th July, 1977

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

Dated the 18th July, 1977.

NATHU RAM SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 7827-3Lab-77/21008.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Haryana, Faridabad in respect of the dispute between the workman and the management of M/s Rattan Chand Harjas Rai (Mouldings) Private Limited, N. I. T., Faridabad.

BEFORE SHRI NATHU RAM SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL HARYANA, FARIDABAD

Application No. 10 of 1976 under section 33-A of the Industrial Disputes Act, 1947

between

SHRI MAHESH KUMAR JAIN, WORKMAN AND THE MANAGEMENT OF M/S RATTAN CHAND HARJAS RAI (MOULDINGS) PRIVATE LIMITED, N. I. T., FARIDABAD

Present :—Shri Madhu Sudan Saran Coughish, for the workman.

Shri R. C. Sharma for the management.

AWARD

The applicant filed this application under section 33-A of the Industrial Disputes Act, alleging that the respondent contravened the provisions of section 33(2)(b) of the Industrial Disputes Act, by illegally dismissing him from service on 14th August, 1976 while an industrial dispute appearing No. 149 of 1976 and application No. 62 of 1976 under section 33(C)(2) were pending and the management did not seek approval of their action of dismissing this applicant.

The notice of the complaint was sent to the respondent. The respondent filed written statement. On the pleadings of the parties, the following issues were framed on 8th November, 1976.

- (1) Whether the management is guilty of contravention of sub-section 2(b) of section 33 of the I. D. Act? If so, to what effect?
- (2) Whether the dismissal of the applicant by the management was justified and in order? If not, to what effect?
- (3) Relief?

The workman examined himself as W. W. 1 who stated that he was dismissed from service while regular reference was pending and a case under section 33(c)(2) was pending in the Labour Court and closed their case. The respondent examined Shri A. S. Sharma, Enquiry Officer as M. W. 1 who proved the documents and records of domestic enquiry held by him against the workman concerned, as he was appointed Enquiry Officer by the respondent. The respondent also examined Shri H. S. Chowhan, Personnel Officer and Factory Manager as M. W. 2 who produced a Photostat copy of the letter sent by the Deputy Secretary Labour Department, Haryana addressed to the union and copy sent to the respondent which is Exhibit M 55 which speaks that the items Nos. 1 and 2 of the demand notice dated 16th January, 1976 had been sent the Court concerned and that other demands have been rejected by the Government.

I have gone through the pleadings of the parties as well as their evidence oral as well as documentary. The management has proved about 58 documents produced in the domestic enquiry.

The learned representative of the workman stated on 20th June, 1977 that he shall neither adduce any evidence on issue No. 2 on the ground that the Tribunal should not decide on merits. Thereupon the learned representative for the management argued that the Tribunal should go on merits and cited 1977-LIC-page 834. I have gone through this ruling of the Hon'ble the Supreme Court of India in Civil Appeal No. 900 of 1976-E titled the Bhavnagar Municipality Vs. Ali Bhai Karim Bhai in which it has been held that the Tribunal should decide on merits. Therefore, according to this ruling of the Hon'ble the Supreme Court of India, I have to decide on merits also. During course of arguments, the learned representative for the management although argued half heartedly on issue No. 1 also but did not contest this issue much. He contested issue No. 2 only.

As far as issue No. 1 is concerned, Gazette Notification dated 4th August, 1976 Exhibit W 4 is in the file which proves that the dispute was pending since 4th August, 1976 and the applicant was dismissed from service on 14th August, 1976. The management neither pleaded nor proved that they made their application for seeking approval of their action of dismissing the applicant. Further more the respondent did not prove that one months wages as required under the proviso to section 33(2)(b) have been paid to the workman concerned. I, therefore, hold that the respondent has contravened the provisions of section 33(2)(b) of the Industrial Disputes Act, and decide this issue in favour of the applicant.

Issues No. 2:

Now I come to discuss issue No. 2. The complainant did not give any evidence on this issue nor he wanted to give. But the onus of this issue is on the respondent. The respondent examined Shri A. S. Sharma, who held the domestic enquiry into the charges levelled against the complainant. He stated that he was appointed Enquiry Officer by the management. He considered all the documents and gave his finding Exhibit M-54.

I have gone through the enquiry proceedings, They are detailed one. Moreover the workman did not give any evidence against the domestic enquiry. I have also seen the findings of the enquiry given by Shri A. S. Sharma. The documents of enquiry proceedings proved that principle of natural justice have not suffered at any place. The enquiry officer has examined as many as 9 witnesses for the management. Full opportunity of cross-examination was given to the workman concerned. The enquiry officer has also examined two witnesses for the workman including the respondent. The enquiry has also given full opportunity of defence to the respondent. I, therefore, find that principle of natural justice has not suffered in the enquiry proceedings and the enquiry is not vitiated on any ground.

The charges levelled against the applicant were tempered the label of 22 line the original G.R. showed 74,000 number whereas duplicate and triplicate thereof showed 94,000 numbers of labels and that several material issued slips did not tally with the duplicate carbon copy of the slip and the additions were made in the hand of the complainant, and that when the charges of selected items were taken from the complainant and the list bore his signatures but shortage of 26 items were found on checking. There was a charge of mis-appropriation was also levelled in this respect. There was a charge of negligence also. This resulted into the loss to the respondent to the tune of Rs. 7,417.87. There was another charge that the complainant concealed several documents or destroyed several books. The enquiry officer held the complainant guilty of all the charges. These are serious charges which are liable to punishment. Therefore, I find that the complainant has been dismissed on sufficient and reasonable grounds which amount to mis-conduct. I, therefore, hold that the dismissal of the complainant was justified and in order. The evidence of the respondent on this issue as well as the vices of the domestic enquiry also goes unrebutted. I therefore, decide this issue in favour of the respondent.

I, therefore, declined to set aside the dismissal order and to reinstate the complainant. I, therefore, give my award as follows :—

That the dismissal of the justified and in order. He is not entitled to any relief, and his complaint under section 33-A is dismissed and therefore disposed of accordingly. No order as costs.

NATHU RAM SHARMA,

Dated 8th July, 1977.

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 614, dated 18th July, 1977

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

NATHU RAM SHARMA,

Dated 18th July, 1977.

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 7799-3Lab-77/21010.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Haryana, Faridabad, in respect of the dispute between the workmen and the management of M/s Godore Tools (India) Private Limited Kundli, District Sonapat.

BEFORE SHRI NATHU RAM SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Reference No. 36 of 1977

between

THE WORKMAN AND THE MANAGEMENT OF M/S GODORE TOOLS (INDIA) PRIVATE
LTD., KUNDLI, DISTRICT SONEPAT

Present:—

Shri Shiv Charan, concerned workman.

Shri H. K. Taneja, for the management.

AWARD

By order No. ID/RK/365-A-77/14475, dated 18th April, 1977, the Governor of Haryana, referred the following dispute between the management of M/s Godore Tools (India) Private Limited, Kundli, District Sonapat and its workmen to this Tribunal, for adjudication, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 :—

Whether the termination of services of Shri Shiv Charan was justified and in order ?
If not, to what relief is he entitled ?

On receipt of the order of reference, notices were issued to the parties. The parties appeared. They settled the dispute. The representative of the management and the workmen concerned gave statements in support of the settlement. According to the settlement prescribed that the workman concerned has been reinstated and he has joined duty and there was no dispute pending regarding any back wages. The representative for the management prayed that the award may be given on the basis of the settlement. The workman concerned stated that he has been reinstated and joined duty and that thereafter there remain no dispute with the management. He showed the settlement in the court and wanted to take it back which was given back to him.

In view of the settlement I give my award as follows:—

That there is no dispute between the parties, The workmen concerned has been reinstated. The workman concerned gave up his back wages. He has joined duty also in the factory of the management.

NATHU RAM SHARMA,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Dated the 14th July, 1977.

No. 613, dated the 18th July, 1977.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

NATHU RAM SHARMA,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Dated the 18th July, 1977.

No. 7801-3Lab-77/21014.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Haryana, Faridabad, in respect of the dispute between the workmen the management of M/s Globe Metal Industries, Mathura Road, Faridabad.

BEFORE SHRI NATHU RAM SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Reference Nos. 143, 147 and 152 of 1974.

between

SHRIMATI BHAGWATI, JAVITRI, SHANTI DEVI, WORKMEN AND THE MANAGEMENT
OF M/S GLOBE METAL INDUSTRIES, MATHURA ROAD, FARIDABAD

Present :—

Shri Darshan Singh, for the workmen.

Shri S. L. Gupta, for the management.

AWARD

By order No. ID/FD/104-A-74/32840, dated 20th September, 1974. No. ID/FD/74/34070, dated, 7th October, 1974, No. ID/FD/104-G-74/34064, dated 7th October, 1974, the Governor of Haryana referred the following dispute between the management of M/s Globe Metal Industries, Mathura Road Faridabad and its workmen Shrimati Bhagwati, Javitri, Shanti Devi to this Tribunal, for adjudication, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947.

Reference No. 143 of 1974.

Whether the termination of services of Shrimati Bhagwati was justified and in order ? If not, to what relief is she entitled?

Reference No. 147 of 1974.

Whether the termination of services of Shrimati Javitri was justified and in order ? If not, to what relief is she entitled ?

Reference No. 152 of 1974.

Whether the termination of services of Shrimati Shanti Devi was justified and in order? If not, to what relief is she entitled?

On receipt of the references, notices were issued to the parties. The parties appeared and put in their pleadings. On the pleadings of the parties, the following issues were framed by my learned predecessor on 7th March, 1975, in the same in each case.

- (1) Whether the resignation of Shrimati Bhagwati/Javitri/Shanti Devi was obtained by the management by force? If so, with what effect?
- (2) Whether the termination of services of Shrimati Bhagwati/Javitri/Shanti Devi was justified and in order? If not, to what relief is she entitled?

All the above said three cases were consolidated and the evidence was recorded in reference No. 143 of 1974.

The workman examined herself as W.W. 1 but another issue was framed by my learned predecessor on 31st March, 1975. The issue is as follows in each reference.

"Whether the demand the subject matter of the present dispute was first raised on the management and rejected by it before taking up the matter before Conciliation?"

The workman concerned also examined Shri Ram Sarup, Labour-Cum-Conciliation Officer, Gurgaon as W.W. 2 and closed the case. The learned representative for the workman gave statement that he did not perform to adduce any evidence on the additional issue regarding raising of demands directly with the management. Then the management examined Shri Ranjit Singh Chowkidar as M.W. 1 who stated that persons of the workmen concerned were searched in his presence by some other lady workman named Sarvshrimati Ram Piari and Anguri. About a Kilogram of Nylone Botun were recovered from the persons of Shrimati Bhagwati and the same from Shrimati Javitri and a coil of brass weighing about 4½ K.G. were recovered from the person of Shrimati Shanti Devi. He called Bhupender Singh, Foreman. The workman admitted their mistake and tendered written apology written by one Shri Prabhu a Watchman in the service of the State Bank of India having their Godown within the premises of their factory. The apology was read over to the workman concerned. In cross examination he stated that he signed the writing Ex. M-1 to M-3 containing apology and stated that the workman has thumb marked the writing in his presence. The management then examined Shri Bhupender Pal Singh, Foreman as M.W. 2 who corroborated the statement of M.W. 1 and stated that each of the workman appealed for mercy and help to their children saying that she was sorry for the offence committed by her. The management also examined Shri Om Parkash, Time-keeper as M.W. 3 who corroborated the fact that the above said stolen articles were recovered by such from the persons of all the abovesaid three workwomen. He remained present all along the search. The management also examined Sarvshrimati Anguri and Ram Piari as M.W. 4 and M.W. 5 who had taken search of the above said three workwomen. They stated that they had taken search of the workwomen and the abovesaid articles were recovered from the persons of these workwomen. Shri Prabu Singh, Godown Darban, State Bank of India was examined as M.W. 6 stated that the above said three work women were searched although prior to be reached the spot but stolen articles were lying there. He gave description of stolen articles and stated that all the three workwomen had confessed their guilt and the fact that the said stolen articles were recovered from them. The workwomen had apologized and requested him to write their apology and confession. He wrote on the request of the workwomen according to their will and their statements. He read over the contents to the workwomen and thumb marked in his presence. He proved Ex. M-1 to M-3. The three workmen were present in the court and he recognised them by face that these were the workmen concerned and involved. The management also examined Shri Kanwarjit Singh, the Manager, as M.W. 7 and closed their case.

I have gone through the documents produced by the parties and the statements of the witnesses for the parties. The workwomen have admitted their thumb impression on Exhibit M. 1 which is a confession cum-mercy petition and as well as resignation. Exhibit M. 2 is also a confession made by the concerned women. The workman concerned produced the conciliation proceedings Exhibit W. 3/2. The concerned workwomen stated that she did not resign of her own free will and stated that the management obtained her thumb impression on a paper that she was going to be promoted. She said that she could sign in Hindi but she cannot read or write in Hindi.

I have heard the arguments of the representatives of the parties. The representatives of the parties submitted that the resignation was obtained by force. He submitted that it was told to the workman concerned by the management that in case of theft they shall get a case registered against them and under this threat the workwomen gave resignation and thumb marked the documents relied on by the management. He pointed out that

although Shrimati Bhagwati had stated that she thumb marked resignation under mis-representation but Shrimati Javitri had stated that her thumb mark was obtained on Exhibit M. 1 by force and against her wishes. Although it is correct that Shrimati Javitri stated that her thumb mark was obtained by force and against her wishes but she did not describe as to what force was used against her. Similarly the statement of Shrimati Shanti Devi. She also stated that her thumb mark and signatures on Exhibit M. 1 were obtained by force but she did not give the particulars and description of force that was used against her.

The management has clearly proved the guilt of the workwomen beyond doubt and have also proved the resignation by the workwomen. On recovery of stolen articles from the persons of these workwomen, when the management was to get a case registered with the police against them, the work women appology, confess their guilt, gave their resignation in order to save themselves from the police case and the management seeing a very little value of the stolen articles did not get the police case registered against the concerned workwomen and accepted the request of the concerned workwomen not to give the case to the police. I, therefore give my findings on issue No. 1 against the workwomen. No force have been proved by the workwomen concerned. The resignation is proved but use of force is not proved by the workwomen. Hence the resignation is proper. I decide this issue against the workwomen.

Issue No. 2.—

When the workwomen tendered resignation in the circumstances narrated above, the question of termination of service does not arise. The resignation when accepted puts an end to service and service terminated automatically. The workman concerned has given Exhibit W. 2 which is letter from the management to the workman concerned informing the workman concerned that her resignation has been accepted and she could collect her full and final dues. I, therefore, hold that the service of the workman concerned have automatically terminated by virtue of resignation which had been accepted by the management. I, therefore, hold that it is not a case of termination of services rather a case of resignation given by the workman concerned in the above said circumstances in order to save herself from the agony of a police case which could start on the basis of recovery of stolen articles. Even if the management accepting resignation, terminate the services of the workman concerned by virtue of the resignation given by the workman concerned, such termination deem automatically and naturally justified and in order. I decide this issue accordingly. I, therefore, give my award as follows—

That the termination of services of the workman concerned is a result of resignation submitted by her and accepted by the management and is justified. The workman concerned is not entitled to any relief.

This award may be treated as award in reference No. 147 of 1974 and 152 of 1974 also.

NATHU RAM SHARMA,

Dated the 8th July, 1977.

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 615, dated 18th July, 1977

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

Dated the 18th July, 1977.

NATHU RAM SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

P. P. CAPRIHAN,

Financial Commissioner & Secy.